IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1387 OF 2005
IN
EXECUTION APPLICATION NO.174 OF 2005
IN
SUMMARY SUIT NO.3937 OF 2002

Basp Chemicals Products Ltd. ..Plaintiffs.

Vs.

Mr.Harish Agarwal ..Defendant.

And

Noon Karan Agarwal ..Applicant.

Mr.P.B. Shah for the Plaintiffs.
Mr.R.D.Vora for the Applicant.

CORAM : S.J. VAZIFDAR, J.
DATED : 6TH FEBRUARY, 2006

P.C. :

The Chamber Summons has been filed to raise the attachment levied on moveable and immoveable properties.

2. The Plaintiff is a decree holder. It is true that the Applicant is the father of the Defendant, judgment debtor.

3. The immoveable property is the residential ownership flat. The immoveable properties are those which would normally be found in residential

premises, such as, refrigerator, cupboards and tables.

4. Firstly, there is not an iota of evidence to indicate that the flat belongs to the judgment debtor. Even assuming that the judgment debtor resides with his father, the Applicant, it would make no difference if the Applicant, in fact, is the owner of the flat.

5. On the other hand, the Applicant has produced an agreement dated 15.7.1971 which clearly establishes that he had purchased the said flat. At that time, the judgment debtor was only one year old. The share certificates in respect of the said flat also stand in the individual name of the Applicant. The amounts towards maintenance have also been paid by the Applicant.

6. In the circmstances, the Plaintiff has not established that the judgment debtor is the owner of the said properties. On the other hand, the Applicant has clearly established that he is the owner thereof.

7. In the circumstances, the Chamber Summons is

made absolute in terms of prayer (a). There shall be no orders as to cost.